

## **REMARKS**

This comments of the Examiner as set forth in the Office Action dated April 27, 2006, have been carefully studied and reviewed. This Amendment and Response to Office Action is submitted in response to that Office Action. Favorable reconsideration of this application as presently amended is respectfully requested for the reasons set forth below.

### ***I. STATUS OF CLAIMS***

Claims 1, 5, 23, 27, and 33 are amended; claims 22, 32, and 34 are new; and Claims 3, 4, and 24-26 are withdrawn from consideration at this time without prejudice. Applicant retains the right to later assert the withdrawn claims, and/or the limitations within the withdrawn claims, in subsequent amendments or applications, such as continuation applications. Claims 1, 2, 5-22, 23, and 27-34 are now pending.

### ***II. CLAIM REJECTIONS UNDER - 35 U.S.C. § 102***

#### **Summary of Rejections**

Claims 1, 2, 6, 22-24 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,872,175 issued to William Lin (hereinafter "*Lin*"). Specifically, the Examiner asserts: that *Lin* discloses a device comprising a resilient ball, two length of resilient arms/cords; that the methods of claims 22-24 and 26-32 are disclosed in the specification of *Lin*; and that elements 313 and 323 in *Lin* are "fixtures that permit use of a user's feet, and fixtures being removable", which anticipate Claims 15 and 16.

Claims 1, 13, 14 and 18 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,837,835 issued to Yang-Chin Huang (hereinafter “*Huang*”). Specifically the Examiner asserts: “See figs. 1 and 4”.

Claims 1-3, 5, 9-13, 17, 19-24 and 26-31 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,833,587 issued to Strong et al (hereinafter “*Strong*”). Specifically, the Examiner asserts that Strong discloses an inflatable and comfortable base, and two elastic cords capable of providing multiple levels of resistance. The Examiner further asserts that “the method of Claims 22-24 and 26-31 is disclosed in the device [of *Strong*] figures 6 and 7, the summary of the invention and the body of the specification”.

Claims 1-4 and 6-8 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,810,700 issued to Terry L. Orcutt (hereinafter “*Orcutt*”). Specifically, the Examiner that *Orcutt* discloses “a ball (resilient) having at least one arm and said arm having embodiments of varying strength (see col. 3 lines 10-24).” The Examiner further asserts that Claims 6-8 are anticipated by *Orcutt* at column 3, lines 10-24, and that the method of Claims 22 and 24 is also disclosed by *Orcutt* at column 3, lines 10-24, “in conjunction with the disclosure of the specification”.

### Discussion

The Examiner’s rejections of the claimed invention based on *Line*, *Huang*, *Strong*, and *Orcutt* are respectfully traversed. None of these prior art references anticipate the invention as amended in the claims. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed Cir. 1987). Additionally,

“The identical invention must be shown in as complete detail as is contained in the... claim.”  
*Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989).

*Lin* does not disclose the invention claimed. *Lin* teaches two long holding members (31) and two short holding members (32), each having a rope body (311,321). (See *Lin* column 3, lines 1-5). *Lin* does not teach or even contemplate a training device including “multiple levels of resistance [ ] for each resistance training exercise” achieved by employing “multiple resistance arms of varying strengths” or for “multiple resistance arms of similar strength to achieve said multiple levels of resistance” as claimed by Applicant. (Claims 1, 5, 24, 26, 33, and 34, as amended). Hence, *Lin* does not anticipate Claims 1, 2, 6, 15, 16, 22-24, and 26-34, as amended.

Neither does *Huang* disclose the invention claimed. *Huang* teaches a “ball” with “two elastic cables” where the “ball can be designed in any size”. (*Huang* claims 1 & 2). Nowhere in the specification does *Huang* teach or even contemplate a training device including multiple levels of resistance achieved by employing varying numbers of resistance arms for each exercise as claimed by Applicant. Thus, *Huang* does not anticipate Claims 1, 13, 14, and 18, as amended.

*Strong* does not disclose the invention claimed. *Strong* teaches a base “configured to receive a deformable exercise ball” and “attachment points disposed on the [ ] base”. (*Strong* Claim 1). Nowhere in its specification does *Strong* teach or contemplate “resistance arms affixed to [ a ] conformable base” as claimed by Applicant in independent Claims 1, 23, and 33. Further, *Strong* teaches achieving multiple levels of resistance by “appropriately routing elastic bands through multiple attachment points”. Nowhere does *Strong* teach or contemplate use of multiple resistance arms of varying or similar strength to achieve multiple levels of resistance for

each resistance training exercise as claimed by Applicant. Thus, *Strong* does not anticipate Claims 1-3, 5, 9-13, 17, 19-24, and 26-31, as amended.

*Orcutt* does not disclose the invention claimed. *Orcutt* teaches “variations of resistance or exercises” by employing “more than one resistance member, either singly or in combination”. (*Orcutt* column 3, lines 21-24). *Orcutt* further teaches incorporation of “two or more separate resistance members [ ] in any number of locations.” (*Orcutt* column 4, lines 36-37).

*Orcutt* and the other prior art referenced by the Examiner do not teach or even contemplate Applicant’s multiple resistance arms of varying or similar strength to achieve multiple levels of resistance for each resistance training exercise. Applicant’s Figure 4, for example, illustrates a conformable base having six resistance arms of varying strengths or similar strength 230 attached simultaneously at the same attachment position 235. Alternatively, any number of resistance arms of varying strengths or similar strength may be attached simultaneously at any number of attachment positions suitable for carrying out a thorough exercise regimen, depending on a user’s needs.

The prior art referenced by the Examiner does not contemplated the level of variation and flexibility possible with Applicant’s device and, by their limitations, the teachings of the prior art teach away from Applicant’s device. Consider again Applicant’s Figure 4: a user may be seated on the conformable base 200 and simultaneously execute biceps curls with each arm by gripping one set of resistance arms 220 attached at position 215 with one hand, and gripping the other set of resistance arms 220 attached at position 225 with the other hand. Over several sets, each set typically being made up of multiple repetitions, the user may increase or decrease resistance each set by gripping one or more of the resistance arms 220 as desired. The number and type

(e.g. - strength) of individual resistance arms attached at each position may be designed to provide a full spectrum of resistance levels desired by any user. By analogy to exercising with ‘free weights’, for example, the number and type of individual resistance arms permits a user to vary resistance levels along as broad a spectrum as if the user were using heavier or lighter dumbbells, or adding or removing ‘plates’ on a barbell.

*Orcutt* teaches “two or more separate resistance members coupled to ball 14 in any number of locations” (*Orcutt* column 4, lines 36-37), but *Orcutt* does not show a first set of multiple resistance members at a first position, while a second set of multiple resistance members is simultaneously attached at a second position, a third set of multiple resistance members is simultaneously attached at a third position, and so on as in Applicant’s Figure 4. *Orcutt* further teaches at Column 4, lines 40-42, that “two or more separate resistance members coupled to ball 14 in any number of locations” means “multiple connect points for one or more resistance members” in the same “coupling assembly.” Thus, *Orcutt*’s teaching limits “multiple connect points” to the same location (“coupling assembly”) on the ball, which teaches away from the invention claimed in the present application. Nothing in *Orcutt* teaches or contemplates Applicant’s simultaneous use of different attachment positions as illustrated in Applicant’s Figure 4, which affords users of Applicant’s device greater flexibility to carry out a more thorough exercise regimen. This teaching in *Orcutt* unnecessarily limits flexibility and variation and, thus, teaches away from the greater variation and flexibility afforded by Applicant’s device. Therefore, Claims 1-4, 6-8, 22, and 24 are not anticipated by *Orcutt* and the rejections of Claims 1, 2, 5-21, 22, 26-30, 31, and 32, as amended, have been overcome.

### ***III. CONCLUSION***

In view of the foregoing remarks, the Applicant respectfully submits that all pending claims are allowable over the art of record and respectfully requests a Notice of Allowance.

If the Examiner has any questions or comments or otherwise feels it would be helpful in expediting the application, he is encouraged to telephone the undersigned at (512) 457-8000.

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Respectfully submitted,



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